

ORIGINAL

No Copy to Ct

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BRETT T. CULVER

Plaintiff,

EXHIBITS

v.

COMMONWEALTH OF PENNSYLVANIA,
et al.,

Defendants.

Case No. 1:cv-01-0904

(Judge Kane)

EXHIBITS FOR BRIEF IN OPPOSITION
OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Dated 5-22-03

FILED
HARRISBURG, PA

PAGE 3 entry (e),

EXHIBIT 32-B

MAY 27 2003

EXHIBIT 32-C & 32-D

MARY E. D'ANDREA, CLERK
Per _____
Deputy Clerk

EXHIBIT X. 36&37

Please submit these Exhibits with the Judges copy, as this plaintiff is unable to access photo-copy services within time limitations, and these are the only copies plaintiff is able to submit. If needed please make copies for Clear records and bill this plaintiff.

Dated May 22, 2003

~~RECORDED~~

Brett T Culver
Plaintiff

DC-804

PART II

32 B

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

MAH-0217-00

TO: (Name & DC NO.)	INSTITUTION	QUARTERS	GRIEVANCE DATE
Brett Culver, DD-3483	Mahanoy	D/B	4/15/2000

The following is a summary of my findings regarding your grievance:

On 5/10/00 I met with you to discuss your Grievance #MAH-0217-00. At the meeting you informed me that you felt Officer Miknich was harassing you by issuing a misconduct for contraband. The misconduct issued was within the officer's scope of duty and consistent with departmental policy. This does not constitute harassment.

You also expressed that you wanted the items confiscated returned to you. At your hearing on 4/17/2000 the Hearing Examiner found you guilty of Possession of Contraband and ordered the contraband revoked. This means that the items do not return to your possession. This issue will be further discussed with appropriate staff as I explained to you.

WB:dy

cc: Officer Miknich
Carol Dotter
DC 15
file

Refer to DC-ADM 804, Section VIII, for instructions on grievance system appeal procedures.
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SIGNATURE OF GRIEVANCE COORDINATOR	DATE
	5-10-00

32.C.

BRETT CULVER DD-3483
SCI MAHANOY H/Unit D-B
301 MOREA ROAD
FRACKVILLE, PA. 17932

May 11, 2000

SUBJECT: Correction to DC-804 Part II
Official Inmate Grievance
Initial Review Response #MAH-0217-00
Dated 05-10-00

TO: William Banto
Grievance Coordinator
P.O. Box 598
Camp Hill, PA. 17001

This is to correct the information in reference to DC-804 Part II (05-10-00). When we spoke on 05-10-00 I informed you that the grounds of Harassment were the fact that Officer Miknich lied against me and filed false allegations three (3) consecutive times, with a total of four (4) fictitious Misconducts. And this was after he shook me down twice, took all my legal documents (library book/newspaper), and called me a Dick Head. He used lies to abuse his authority and have me put in R.H.U. the night of 04-17-00 by saying I threatened him and his family. This was found to be inconsistent with the false allegations he submitted in the Misconduct, but I still remained in R.H.U. even "after the alleged violation was dismissed. During the time I was held in R.H.U. several Officers told me about various comments Officer Miknich had made about what he did. I will not submit those statements because they would be hear-say. But I will convey that there are other Officers that do not approve or like Officer Miknich's corrupt conduct and actions. Also, most of the Officers know that Miknich has lied on me, and will continue to harass me, because, evidently he has made this well known throughout the Prison. I would have to say that "this and more" does constitute harassment. Especially when other Officers are warning me to watch-out for him.

As for the confiscated items (Officer Miknich issuing Misconducts within his scope of duty and being consistent with departmental policy), "you are incorrect!" Newspapers are not contraband as pointed out in D.O.C. Handbook pg.4 C.B.R. 5. Even though the Administration insists that the "key word" is; between cells:, the point is that newspapers can be passed on to other inmates and are not considered to be contraband in the possession of others. If I was to take a newspaper with someone else's name on it to block-out, would that be considered contraband since I am no longer in my cell? "Of course not." Has any other inmate ever been given a Misconduct for having a newspaper with someone else's name on it? "Of course not." Is the newspaper in another inmates name being used in this case to manipulate a situation and justify false allegations? "Yes it is!" The Misconduct of issue pertaining to Contraband (#A159045) refers to a; newspaper with law work on the inside of newspaper (lie) was in inmate Gillingham's name & number: "That is the alleged violation. The newspaper is said to be contraband because it was in Dana Gillingham's name. This is "not a violation nor is it consistent with departmental policy as you have stated. If you have D.O.C. policy to support your contention, again I would ask for this to be cited for my acknowledgement.

32 D.

It must also be brought to attention that the Legal Documents that were confiscated "are not" referred to as contraband in the Misconduct #A159045. It simply states that the Legal Work was inside the newspaper that was identified as the contraband (and this lie was to justify the situation of wrongfully taking the Legal documents when Miknich discovered he made a mistake by taking the Legal Documents). Again, contrary to your statements, nowhere in the D.O.C. Handbook, the Inmate Handbook Supplement, the SCI Mahanoy D Unit Handbook, or the Inmate Library Procedures pamphlet does it state, in any way, that Personal Legal Work cannot be taken to Recreation Library. If you say that this is in violation of Departmental Policy, again, please cite the directive to support this for my acknowledgement (even though the Legal Work was not identified as contraband in the Misconduct, "as it cannot be contraband").

The final issue is that the Hearing Examiner only considered the newspaper as a violation (#A159045 on 04-17-00), and stated that he had no idea why the Legal Work was confiscated. Therefore, on 04-17-00 it was said by the Hearing Examiner that the newspaper was contraband, and that this said newspaper being contraband be revoked. "Is this correct?!" (See #A159045 DC-141 Part II B 04-17-00)

Not only is there no D.O.C. Policy to support the allegations or actions by Officer Miknich, he has been telling individuals that he set-me-up, and is going to continue setting-me-up. This is a clear case of harassment as demonstrated by the four (4) consecutive (false/meritless) Misconducts issued by Officer Miknich, his allegations, and actions to manipulate Administrative procedures (having me placed in R.H.U. prior to any Hearing on his false allegations).

The issue of reality is why the D.O.C. would support this Officer in his personal devious abuse of authority, and his personal deviate corruption of this Administration?? The promoting and support of this corrupt Officer (conduct and actions) by this Administration and the D.O.C. is noted.

BC:lt

cc: A. Love Esquire
C. Dotter

X. 36937

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BRETT CULVER DD-3483
301 MOREA ROAD
FRACKVILLE, PA.17932

Re Submitted with 36A 37A.
8-11-00 (under 36c, 37c.)

August 11, 2000

SUBJECT: Re-submit Initial Grievance (8-4-00)
With Response to C.Dotter Return (8-9-00)

TO: Grievance Coordinator
Carol M. Dotter

FROM: Brett Culver DD-3483
H/Unit D-B

In your Return (8-9-00) of Grievance (8-4-00) you submit that this Grievance was returned because the issue was addressed in Grievance No. MAH-0217-00. This however is inaccurate. Although the Administration at SCI Mahanoy has used every means of cunning and contriving deception to allude mention or responsibility for the seizure of my Legal Documents/Work/Records, the Initial Review Response by a William Banto (5-10-00) left the issue of my seized Legal Documents/Work/Records pending resolution. Also, my Legal Documents/Work/Records were never identified as Contraband. Legal Work, Documents, and Legal Records cannot be in any situation or circumstance considered Contraband, or be seized at any time.

After I received the inaccurate response of Initial Review Response (MAH-0217-00) William Banto 5-10-00 (that left the Decision on my Legal Documents/Work/Records pending), I then submitted a Correction Response to the William Banto (5-11-00). There was never any further Administrative response to these issues that were left pending, and I have been prevented from pursuing a resolution or relief on any of these issues.

At the Hearing 4-17-00 related to the seizure incident, Hearing Examiner Kain stated that he did not understand why C.O.Miknich confiscated the Legal Documents/Work/Records. He also said that I should contact the Property Office for their return. At no point, in the misconduct report, at the Hearing, or in the decision were these Legal Documents/Work/Records ever cited or identified as contraband, which would be impossible for them to be contraband.

There never was a decision entered on this issue in MAH-0217-00 as you contend.

Of note is the continued harassment by C.O.Miknich to my person, with the continued tolerance, justification, and support by the SCI Mahanoy Administration.

The Official Offices (chain of process) at SCI Mahanoy are non-compliant with proper procedures in processing these issues of Grievance. Therefore, Grievance No. MAH-0217-00 is still pending a decision at the Grievance Office level. And since there has been no Administrative response for a final decision on this issue, or Administrative relief from the continued harassment by C.O.Miknich, the Re-submitted Grievance 8-4-00 included is appropriate for process on these unresolved pending issues.

Also, there was never any decision entered into record on MAH-0286-00 as you contend (8-9-00). After submitting MAH-0286-00 to the Grievance Coordinator three times (6-8-00, 6-13-00, 6-20-00) I was then called to the Property Office at 8:40 PM (6-25-00), coerced into signing-off on MAH-0286-00, and directly afterwards submitted a declaration of: Condition to Signature Under Duress 6-25-00. There was never any Administrative response on these issues.

MAH-0286-00 also has no disposition, and has been obstructed from process by Administrative actions.

The situation of Administrative incompetence, or intentional non-compliance to process in regard to both MAH-0217-00 and MAH-0286-00 has been documented.

cc: C.Dotter
K.R.Stuber esquire